

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA and
STATE OF WISCONSIN,

Plaintiffs,

v.

Case No. 10-C-910

NCR CORP. and APPLETON PAPERS INC. et al.,

Defendant.

ORDER

Plaintiffs have filed a motion to exclude certain expert testimony offered by the Defendants. In particular, they ask that the testimony be barred because this Court has already ruled that the administrative record will stand on its own without being expanded. Recently, I granted a partial motion for reconsideration on the ground that NCR's expert, Jeffrey Zelikson, would be offering limited testimony that did not expand the record. Accordingly, the motion to exclude will be denied to the extent this Court has already allowed Mr. Zelikson to testify. Some of the other Defendants also note that their own expert, Paul Fuglevand, proposes to testify on a similar line as Zelikson. That is, his testimony will not seek to augment the administrative record itself (at least, the Defendants will withdraw any such effort) but will be limited to a discussion of the cost-effectiveness of the remedy. As such, the Defendants ask that he be allowed to offer his own limited testimony.

My review of Fuglevand's report suggests that his testimony may be considered on the limited basis set forth above. He may testify within his expertise about cost-effectiveness on the

same basis that Zelikson has been allowed to testify. The motion to exclude is **GRANTED** in part and **DENIED** in part, as set forth above.

SO ORDERED this 17th day of October, 2012.

s/ William C. Griesbach

William C. Griesbach

United States District Judge